

Resolving Environmental Disputes



County Roads

April 2003

History of County Roads

- 1866 national policy to settle the West.



History of County Roads

- Congress created a blanket right of way for roads across federal land.
- The section of the law that granted the right of way is R.S. 2477.
- Rights of way claimed under the 1866 law are referred to as R.S. 2477 roads.



History of County Roads

- 1976 FLPMA changed the “settle the west” policy.
- Created a historic R.S. 2477 right of way on roads that existed before 1976.
- Where R.S. 2477 right of way does not exist, a NEPA study is required to create, improve or maintain a county road on federal land.



History of County Roads

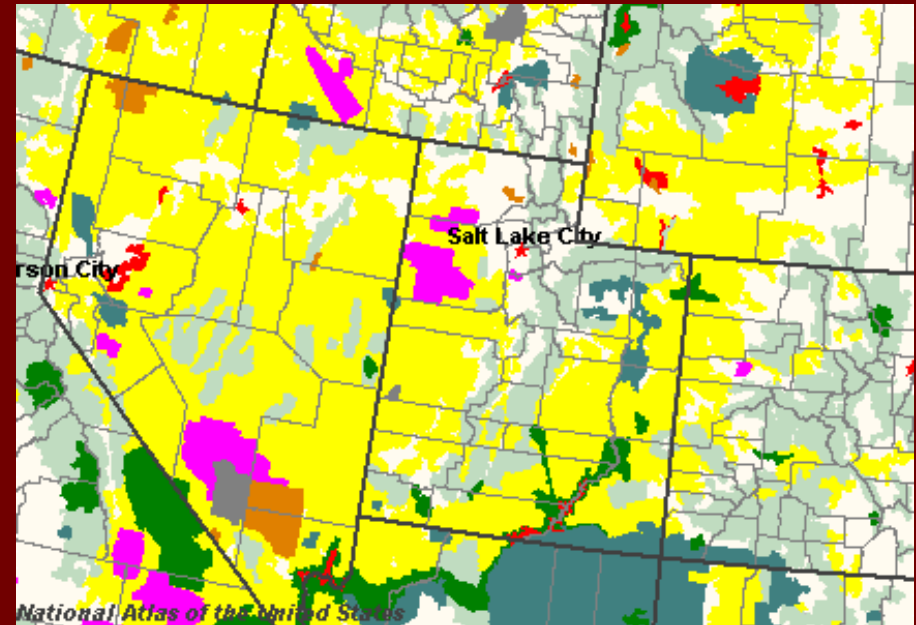
Problem:

No inventory or documentation of roads with historic R.S. 2477 rights of way.



History of County Roads

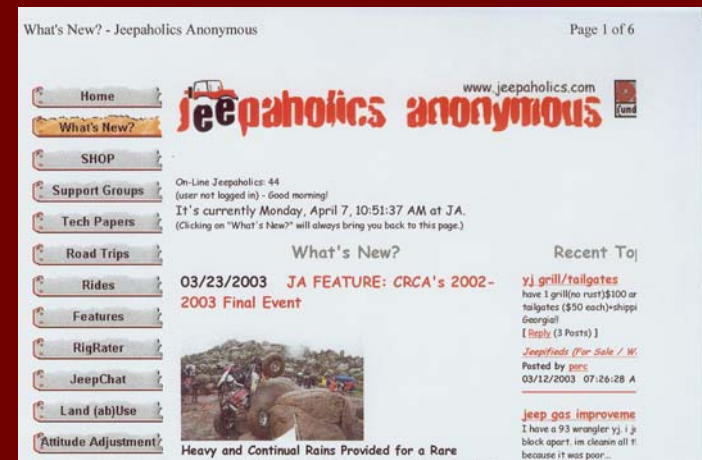
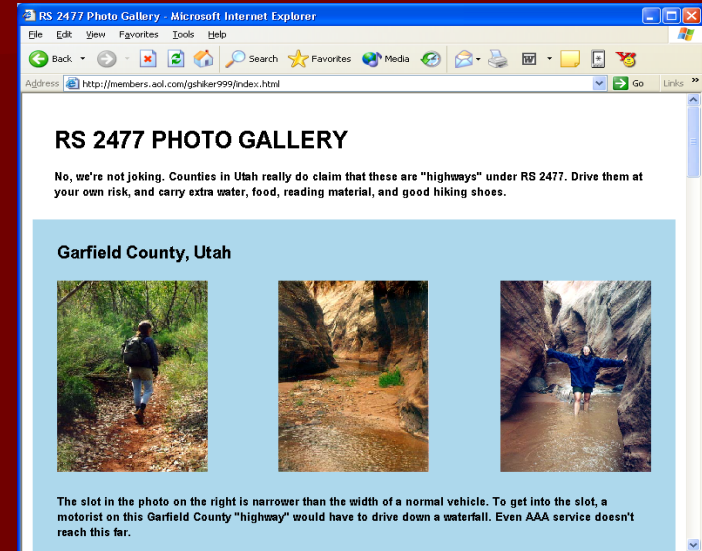
- **Constant conflict:**
 - Where do R.S. 2477 rights of way exist?
 - Where the rights of way exist, what is the width?



History of County Roads

Impact of thirty years of conflict:

- Economic damage to those who depend on the roads.
- No certainty.
- Millions of dollars spent on litigation.
- Resource planning delays for federal agencies.
- Divided communities.



A Choice

■ Litigation

- Quiet title action.
- Both sides spend millions to secure evidence.
- Delay resource planning processes for years.

■ *Enlibra* Principles

- **Collaborate** to find a solution rather than further polarization.
- Establish a **standard** for a resolution; allow local implementation.
- **Science** (technology) for facts; create a process to determine outcomes.

Enlibra

Collaboration Not Polarization

Memorandum of understanding

- **Administrative process for federal, state, and local governments.**
 - **Openness**
 - **Public comment**
- **Review each road to determine which roads meet the agreed upon criteria.**
- **Not prejudice future actions.**
- **Federal government to disclaim interest in roads that meet the criteria.**

Enlibra

National Standards, Neighborhood Solutions

■ **The Standard**

– Seven touchstones:

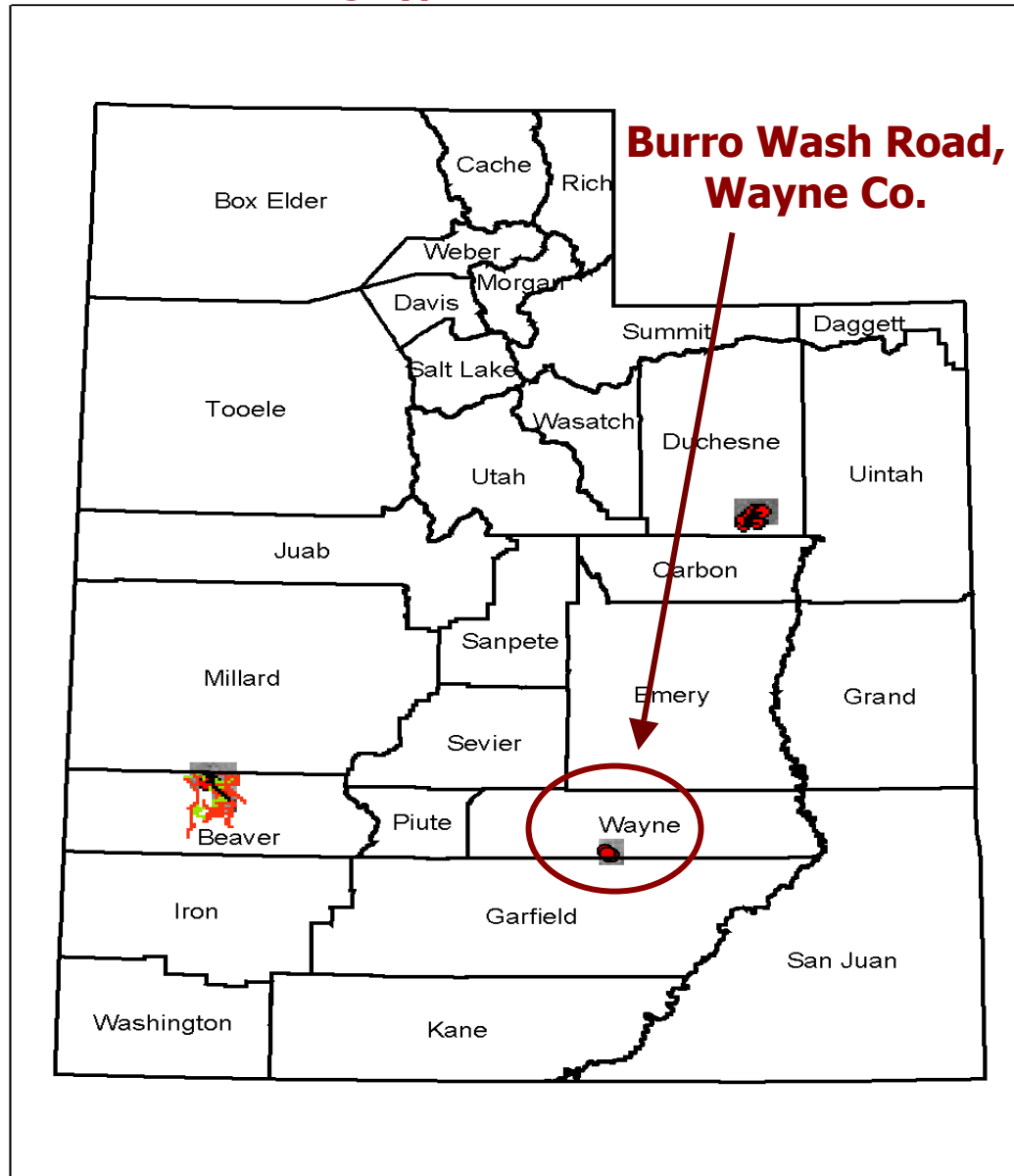
- Existed before 1976.
- Traveled by cars or trucks.
- Not in a national park.
- Not in a wilderness area.
- Not in a wilderness study area.
- Not in a fish and wildlife refuge.
- No expansion - “as is, where is”.

Enlibra

Science for Facts

- GIS.
- Digital photo files.
- Digitization of aerial photographs before and after 1976.
- Digitization of all records into a data warehouse.
- Oral histories with database search.
- \$8 million invested.
- 100,000 person hours.

Three Case Studies Showing Typical Small Roads



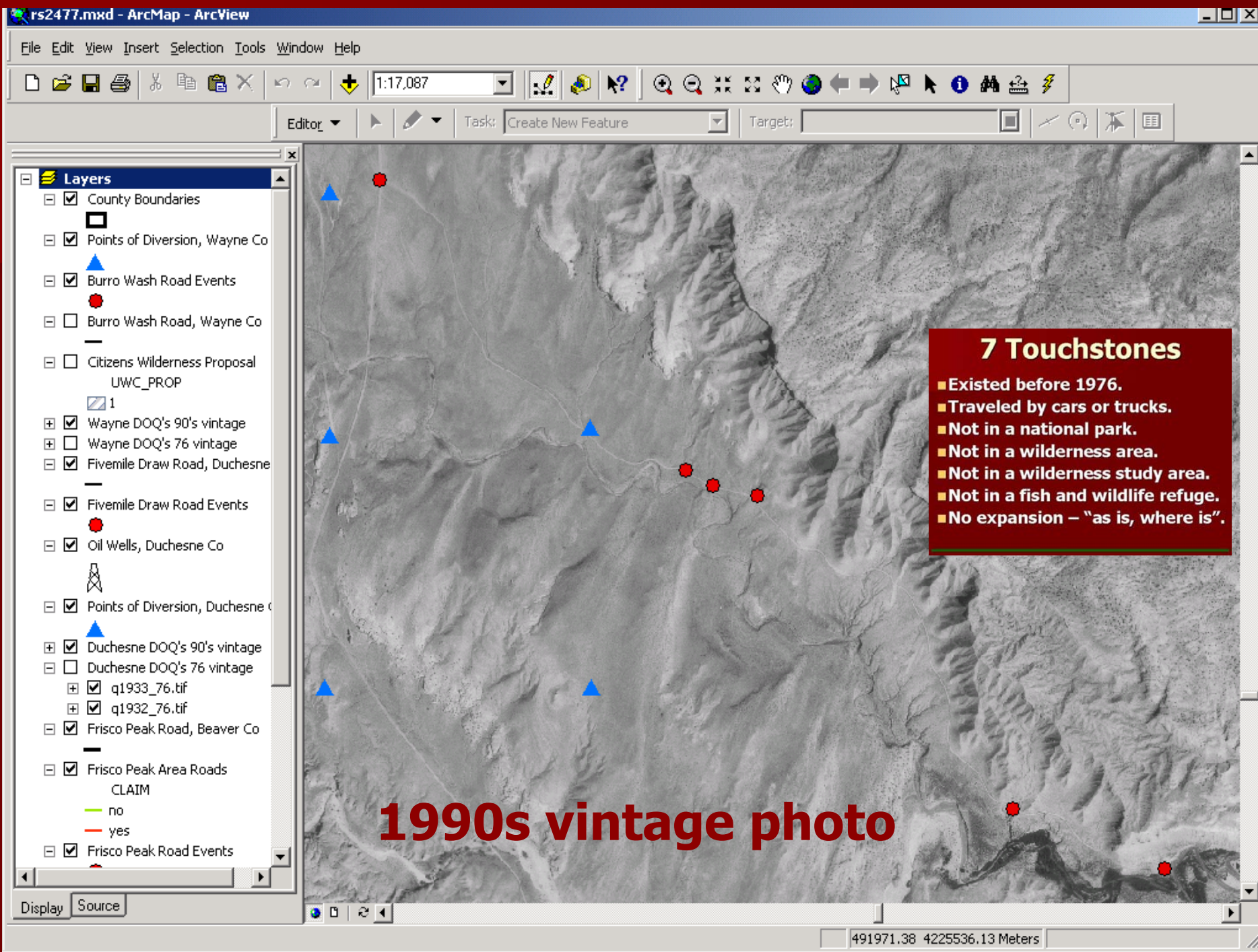
Layers

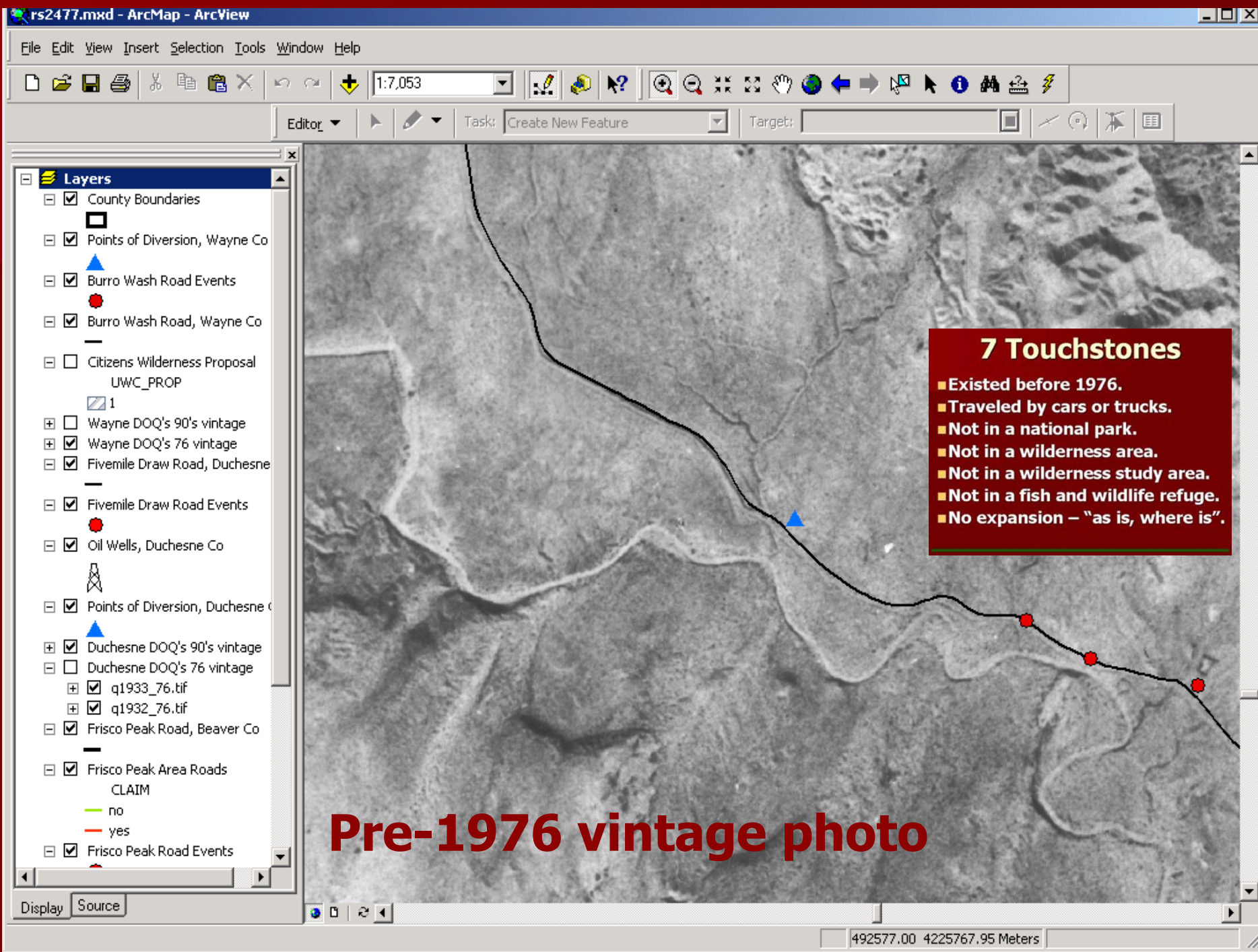
- ☒ County Boundaries
- ☒ Points of Diversion, Wayne Co
- ☒ Burro Wash Road Events
- ☒ Burro Wash Road, Wayne Co
- ☐ Citizens Wilderness Proposal
UWC_PROP
- ☒ Wayne DOQ's 90's vintage
- ☐ Wayne DOQ's 76 vintage
- ☒ Fivemile Draw Road, Duchesne
- ☒ Fivemile Draw Road Events
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- ☒ Frisco Peak Road, Beaver Co
- ☒ Frisco Peak Area Roads
CLAIM
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Burro Wash Road Wayne County

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File Edit View Insert Selection Tools Window Help

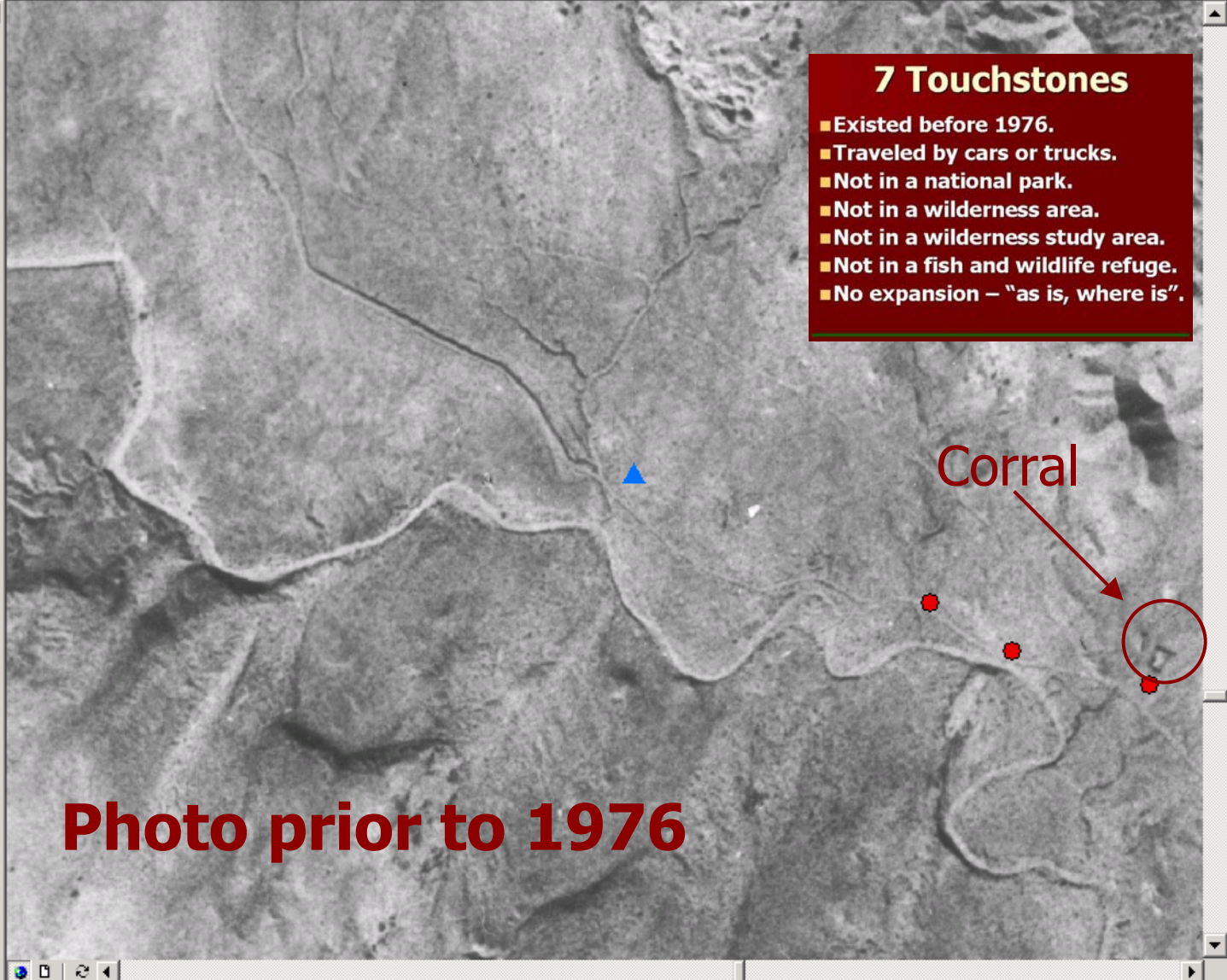
1:7,053

Task: Create New Feature Target:

Layers

- ☒ County Boundaries
- ☒ Points of Diversion, Wayne Co
- ☒ Burro Wash Road Events
- ☐ Burro Wash Road, Wayne Co
- ☐ Citizens Wilderness Proposal UWC_PROP
- ☒ 1
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 - ☒ q1933_76.tif
 - ☒ q1932_76.tif
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 - yes
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Display Source



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Corral

Photo prior to 1976



File Edit View Insert Selection Tools Window Help

1:18,999

Editor Create New Feature Target:

100%

Layers

- ☒ Duch_RD527
- ☒ Burro Wash Roads
 - ☒ Burro Wash Road, Wayne Co
- ☒ Wayne Unclaimed Road



Attributes of Burro Wash Road, Wayne Co

	S_ACCUR	CO_UNIQUE	S_STATUS	S_DATE	S_NAME	S_SURF	S_WIDTH	S_SURFWIDT	
	10	87	A	8/4/1999	Burro Wash	320	22	13	RD 28006
	10	87	A	8/4/1999	Burro Wash	320	22	13	RD 28006

Record: 1 Show: All Selected Records (0 out of 2 Selected.) Options

☒ 1

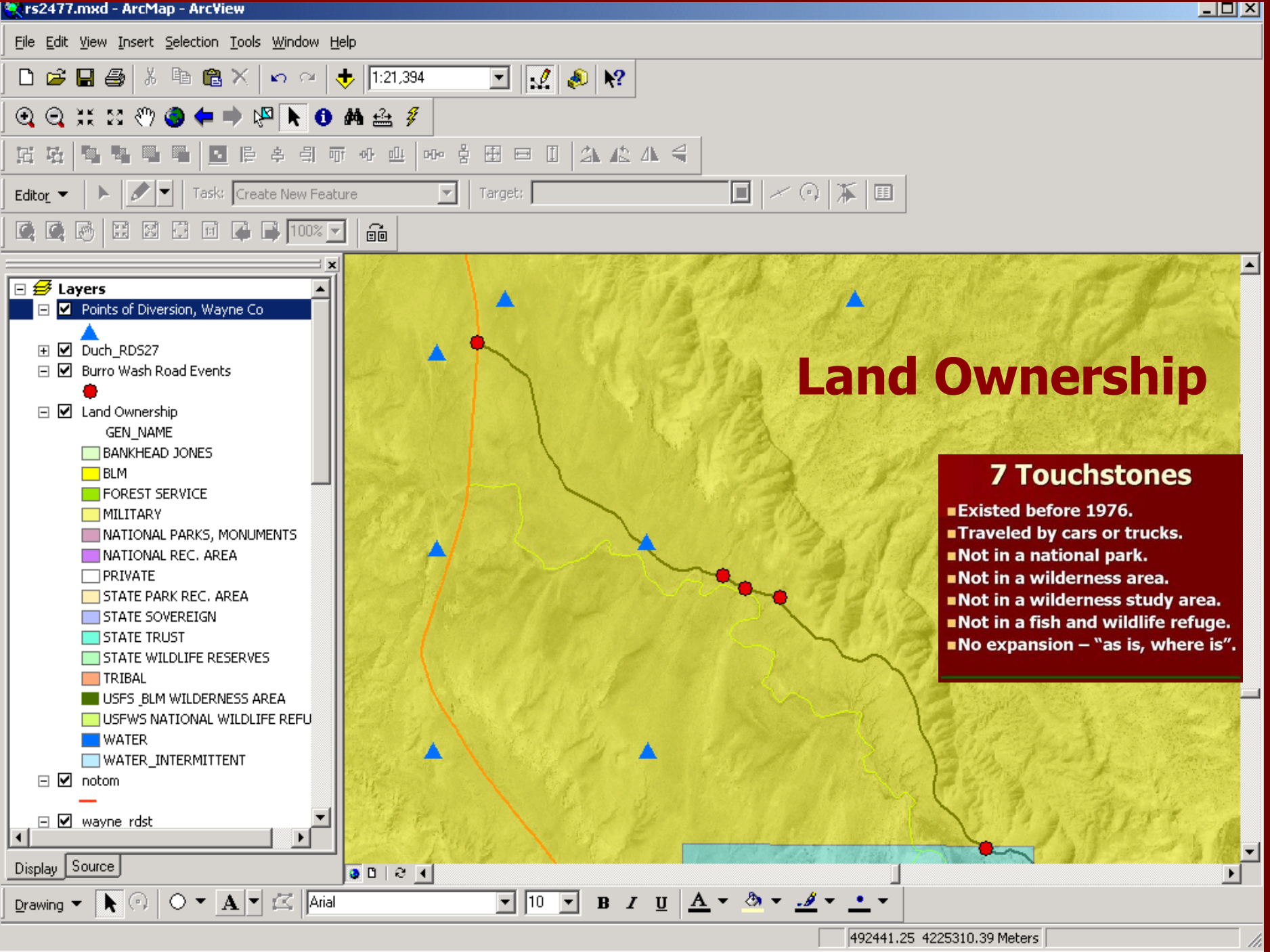
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- ☒ Fivemile Draw Road Events
- ☒ Oil Wells, Duchesne Co
- ☐ Land Ownership
 - GEN_NAME
 - ☐ BANKHEAD JONES
 - ☐ BLM
 - ☐ FOREST SERVICE
 - ☐ MILITARY

Display Source



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Display

Source

Advocates' Wilderness Proposal

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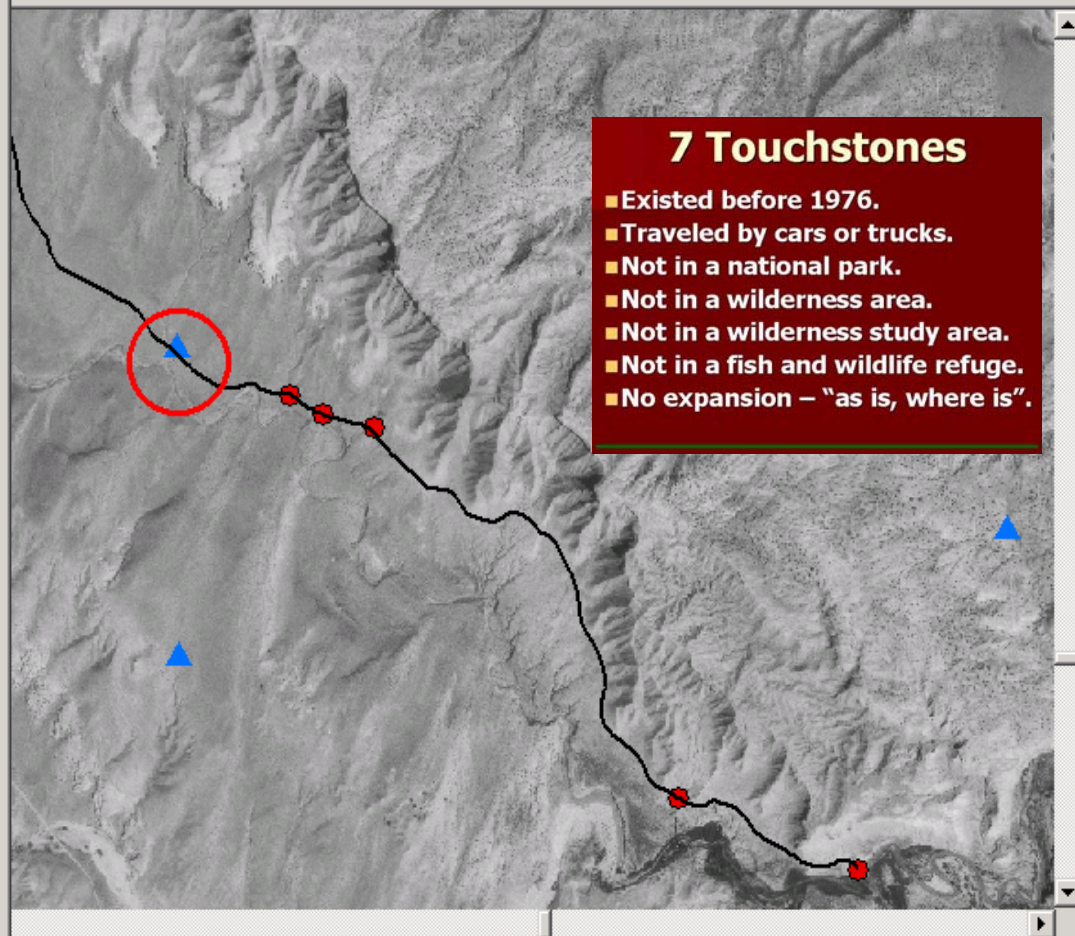
Identify Results

Layers: Points of Diversion, Wayne Co

Location: (492622.387500 4225474.547164)

Field	Value
FID	28
Shape	Point
AREA	0
PERIMETER	0
WRDAMS_	114307
WRDAMS_ID	114307
WRNUM	95 725
CHANGE_	
TYPE	UNDERGROUND
SUMMARY_ST	U
STATUS	APPLUNAP
PRIORITY	19720801
USES	D P
CFS	40
ACFT	0
LOCATN	S 898 W 501 NESL 30S 8E30
WIN	
OWNER	INTERMOUNTAIN CONSUMERS POWER ASSOCIATION
AREA_CODE	95
EXCHG_	
CORNER	NE
BASE	SL
TOWNSHIP	30S
RANGE	8E
SECTION	30
PRIORITY_Y	1972

Water Right Detail



492124.25 4226029.29 Meters

Burro Wash Road Exit from Notom Road



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Affidavit

State of Utah, County of Wayne

_____, being first duly sworn, deposes and states as follows:

1. I am an adult competent to testify about the matters set forth below based on my personal knowledge.

BURRO WASH ROAD (WCR #87)

2. I have observed the Burro Wash Road (Wayne County Road #87) in Wayne County since 1948, and the road descriptions herein pertain to that road.

3. I am familiar with the indicated road because I have been a Wayne County resident for 72 years, and in addition, headed the Wayne County Road Department for eight years. I have traveled the Burro Wash Road several times throughout my life, beginning in 1948.

4. It is the reputation in the community that this road was used since at least as early the 1890s when the pioneers went through there to go down Burro, across the Sandy Creek and through the Blue Notch and service their livestock on the Henry Mountains.

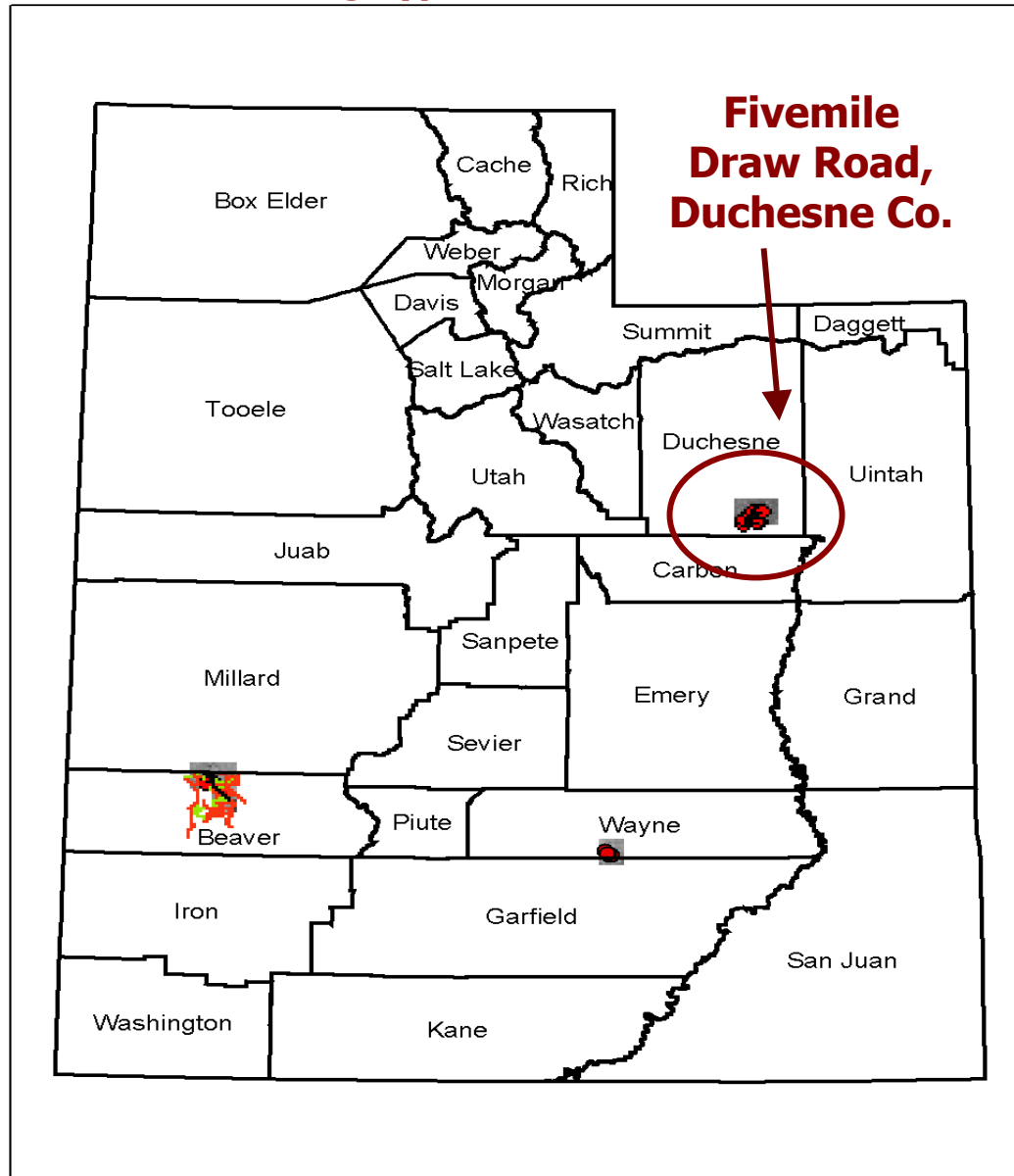
5. The road has been open to the public for all to use, to come and go as they pleased, since at least as the 1890s, according to the reputation in the community, and since 1948, according to my own knowledge, and continuing through 1976 and beyond.

6. Since at least as early as the 1890s, according to the reputation in the community, and since 1948, according to my personal knowledge, and continuing to the present, the road has been used for ranching, homesteading, hunting and trapping, prospecting, sightseeing, camping, recreation, search and rescue, land management, as well as traveling in and through the area. I first used the road in 1948 getting cattle out of there with my uncles.

7. Travelers on the road since the 1890s, according to the reputation in the community, and since 1948, according to my own knowledge, and continuing thereafter, included those who went by horseback and horse-drawn wagon. In more recent times travelers went by car, recreational vehicle, and truck.

8. Construction and maintenance of the road prior to 1976 was performed by dozers and graders. I remember that equipment started in there as early as fifty years ago.

Three Case Studies Showing Typical Small Roads



File Edit View Insert Selection Tools Window Help



Editor Create New Feature Target:



☐ Citizens Wilderness Proposal
UWC_PROP

1

☒ Wayne DOQ's 90's vintage
☐ Wayne DOQ's 76 vintage
☒ Fivemile Draw Road, Duchesne Co

☒ Fivemile Draw Road Events

☒ Oil Wells, Duchesne Co

☐ Land Ownership

GEN_NAME

☐ BANKHEAD JONES☐ BLM☐ FOREST SERVICE☐ MILITARY☐ NATIONAL PARKS, MONUMENTS☐ NATIONAL REC. AREA☐ PRIVATE☐ STATE PARK REC. AREA☐ STATE SOVEREIGN☐ STATE TRUST☐ STATE WILDLIFE RESERVES☐ TRIBAL

Display Source

Drawing Arial

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557234.62 4418530.01 Meters

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1976
Vintage
Photo

File Edit View Insert Selection Tools Window Help

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Editor Create New Feature Target:

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☐ Citizens Wilderness Proposal
UWC_PROP

☒ 1

☒ Wayne DOQ's 90's vintage

☐ Wayne DOQ's 76 vintage

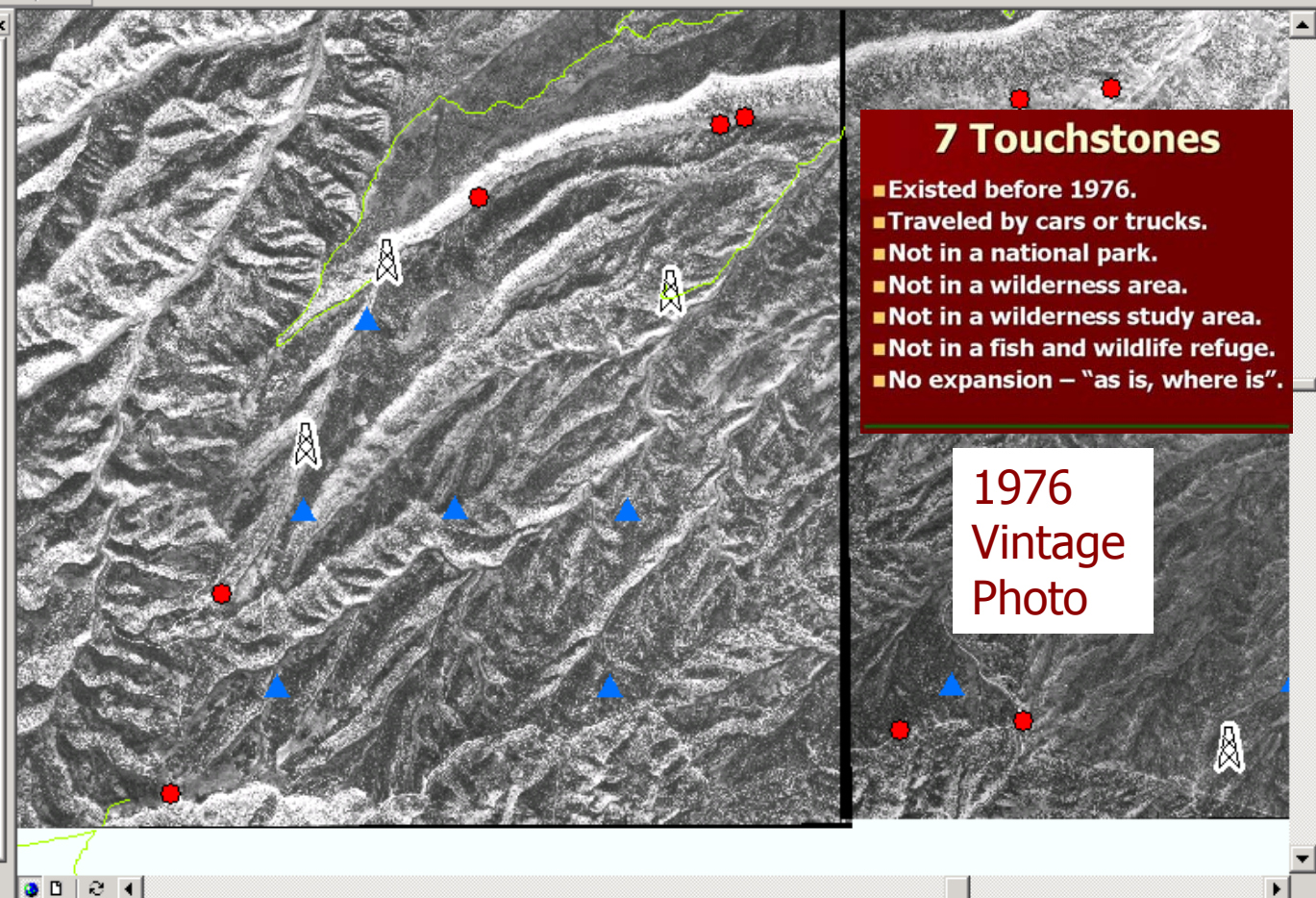
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- STATE SOVEREIGN
- STATE TRUST
- STATE WILDLIFE RESERVES
- TRIBAL



File Edit View Insert Selection Tools Window Help



 1:62,489




 Editor  Task: Create New Feature Target: 
 100% 

Attributes of Fivemile Draw Road, Duchesne Co

S_NAME	CO_UNIQUE	S_STATUS	S_ACCUR	S_SURF	S_WIDTH	S_SURFWIDT	RD_ID
Five Mile Draw Rd.	504	a	10	320	28	18	RD070504
Five Mile Draw Rd.	504	a	10	320	28	18	RD070504

Record:  1  Show: All Selected Records (0 out of 2 Selected.)Options 
☒ Fivemile Draw Road, Duchesne Co

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Display Source

 Drawing  Arial 10 **B** *I* U 
Attributes o... 

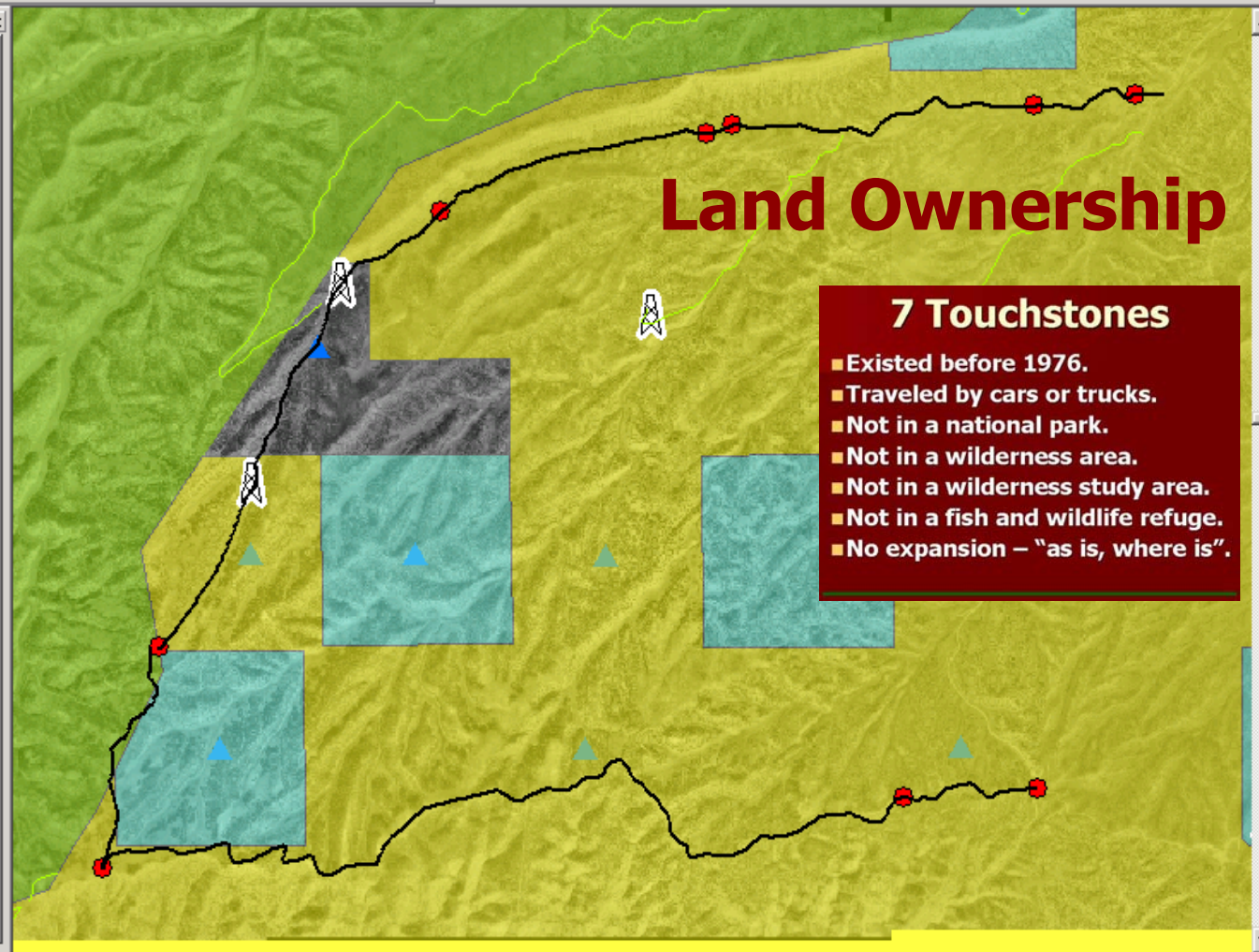
559135.98 4420117.24 Meters

Road Attributes

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 - ☐ STATE TRUST
 - ☐ STATE WILDLIFE RESERVES
 - ☐ TRIBAL
 - ☐ USFS_BLM WILDERNESS AREA
 - ☐ USFWS NATIONAL WILDLIFE REFU
 - ☐ WATER
 - ☐ WATER_INTERMITTENT
- ☒ Points of Diversion, Duchesne Co
- ☒ Duchesne DOQ's 90's vintage
- ☐ Duchesne DOQ's 76 vintage
- ☒ 1933_76 HF



<Top-most layer>

Wells, Duchesne Co

1 FIVE MILE DRAW

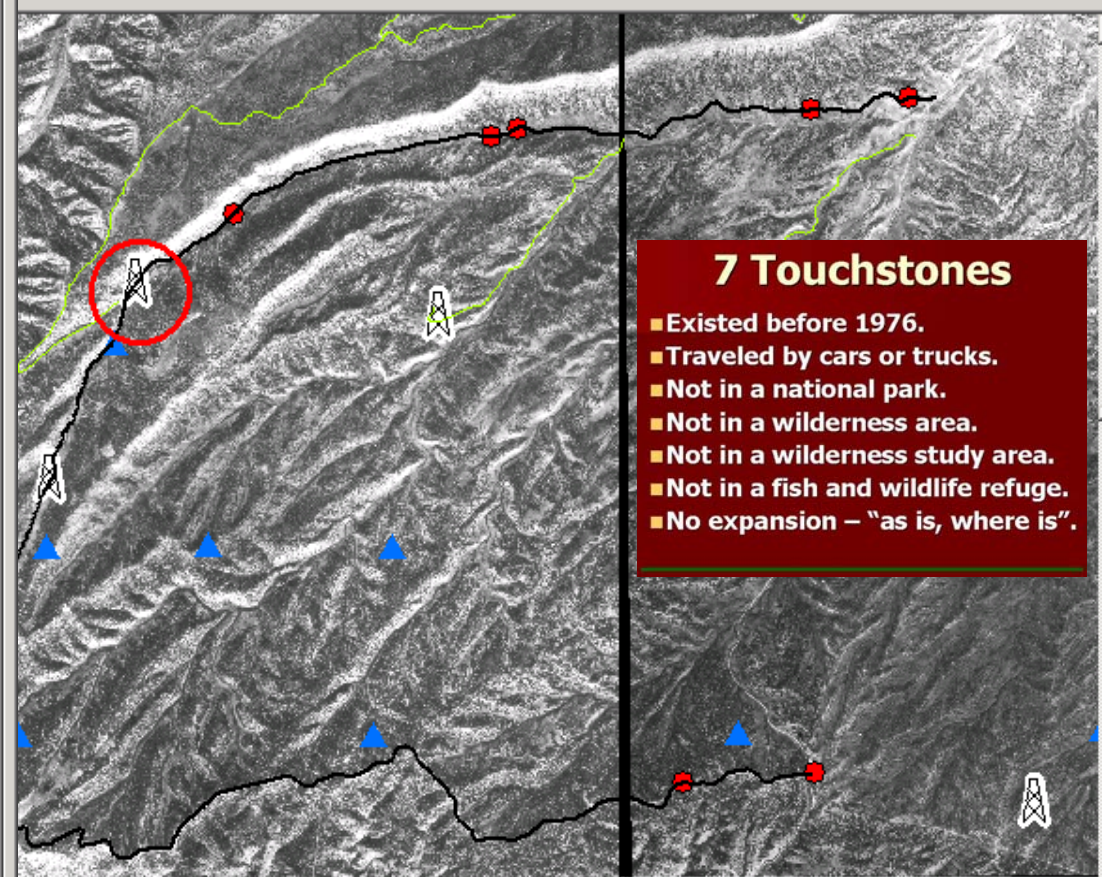
Location: (559780.788997 4419009.487180)

Field	Value
APINUMBER	4301320269
TOWNSHIP	10
TOWNSHIP_D	5
RANGE	14
RANGE_D	E
SECTION	25
MERIDIAN	SALT LAKE
FEET_N_S	560
DIR_N_S	FNL
FEET_E_W	660
DIR_E_W	FWL
QTR_QTR	NWNW
COUNTY	DUCHESNE
STATE	UTAH
SPUD_DATE	08/10/1967
COMP_DATE	09/01/1967
DRILL_TYPE	ROTARY
WELL_STAT	P+A
OPERATOR	GULF OIL CORPORATION
WELLNAME	1 FIVE MILE DRAW
ELEVATION1	7385
ELEV_REF1	KB
ELEVATION2	7371
ELEV_REF2	GR
FIELD	WILDCAT
LATITUDE	39.92119
LONGITUDE	-110.30045
TOTAL_DPTH	5800
PI_IN_ITEM	UTU017290
W_LS_CA_NM	UTU017290
FLAG	
COR_SOURCE	USGS 7.5
FED_JURIS	1
DOGM_LOC	
UTM_EAST	559784.66
UTM_NORTH	4419034.46
UTM_ZONE	12
REMARK1	
REMARK2	
PROD_ZONE	
SPUD_YEAR	1967
COMP_YEAR	
YEAR	1967
SY	1967

Oil Well Characteristics



Make Same Height




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10

B I U**A**

560045.33 4421291.12 Meters



Beginning of Fivemile Draw Road

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Affidavit

97. I have observed the Five Mile Draw Road (County Road # 504) in Duchesne County since 1964 and the road descriptions herein pertain to that road. The Five Mile Draw Road runs from the Wells Draw Road to the Ashley National Forest. (See Exhibit.)

98. I am familiar with the indicated road for the Same reasons identified in paragraph #3.

99. It is the reputation in the community that this road was used by the general public since at least 1900, and has been continuously since that time.

100. The road has been open to the public for all to use, to come and go as they pleased, since at least as early as the early 1900's and continuing through 1976 and beyond.

101. Since at least as early as the early 1900's and continuing to the present the road has been used for ranching, traveling in and through the area, recreation, accessing state school and institutional trust lands, hunting and other sportsmen access, state and local government access, oil and mineral exploration and drilling and contractors.

102. Travelers on the road from at least as early as the early 1900's and continuing thereafter included those who went by foot, horseback, wagon, car, motorcycle, recreational vehicle and truck.

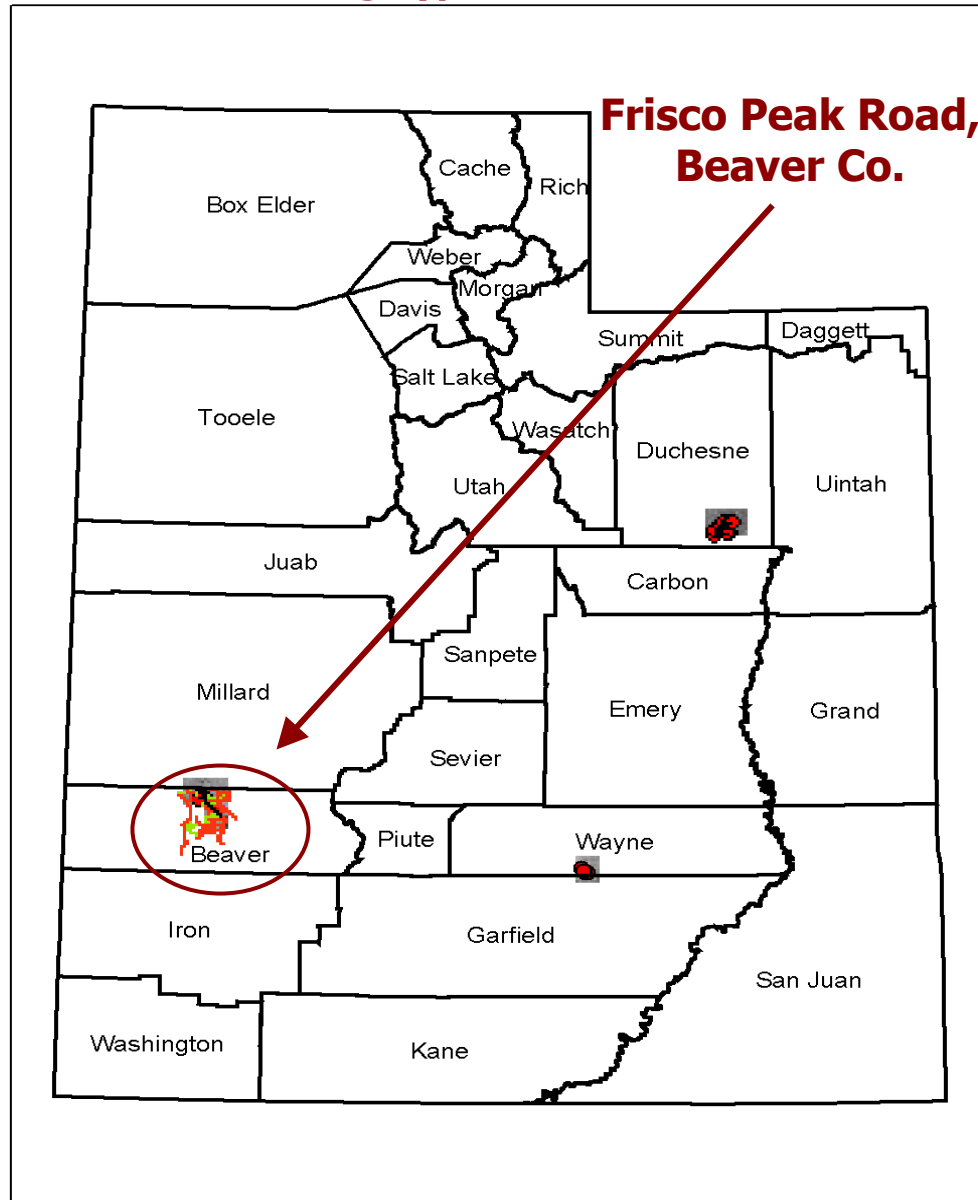
103. When I first used and observed the road it ran the same route as it does now, and the road was well established as of 1950.

104. At no time during my tenure as Road Supervisor did the County undertake any procedure to abandon or vacate it's right-of-way on the road.

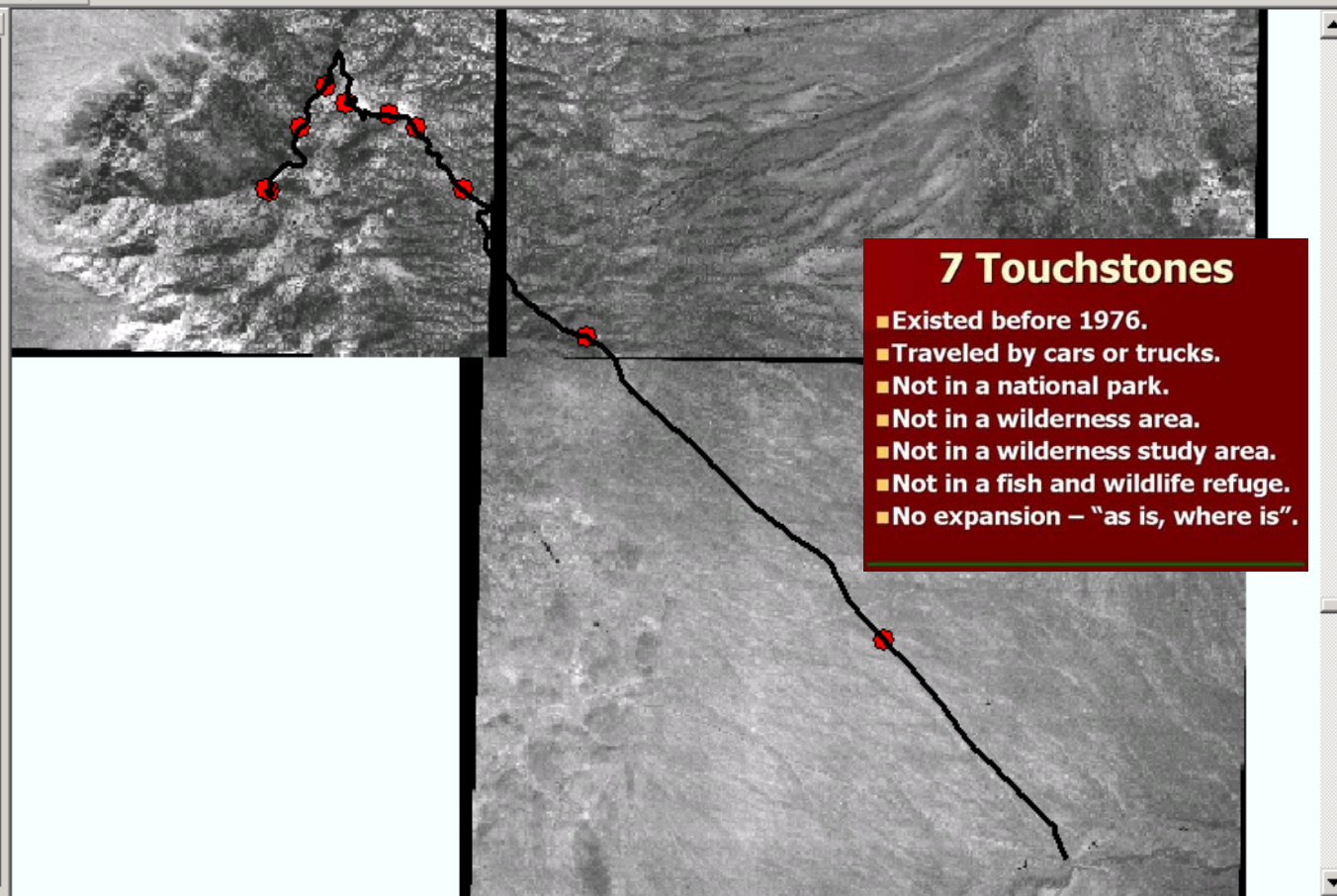
105. This road has been included in the state highway system or infrastructure and has been designated as a Class D highway over which the County has been given jurisdiction by the state legislature for construction, operations and maintenance.

106. There were 22000 sheep in this area during any given winter. We kept this road open to allow the sheep men to move their sheep.

Three Case Studies Showing Typical Small Roads



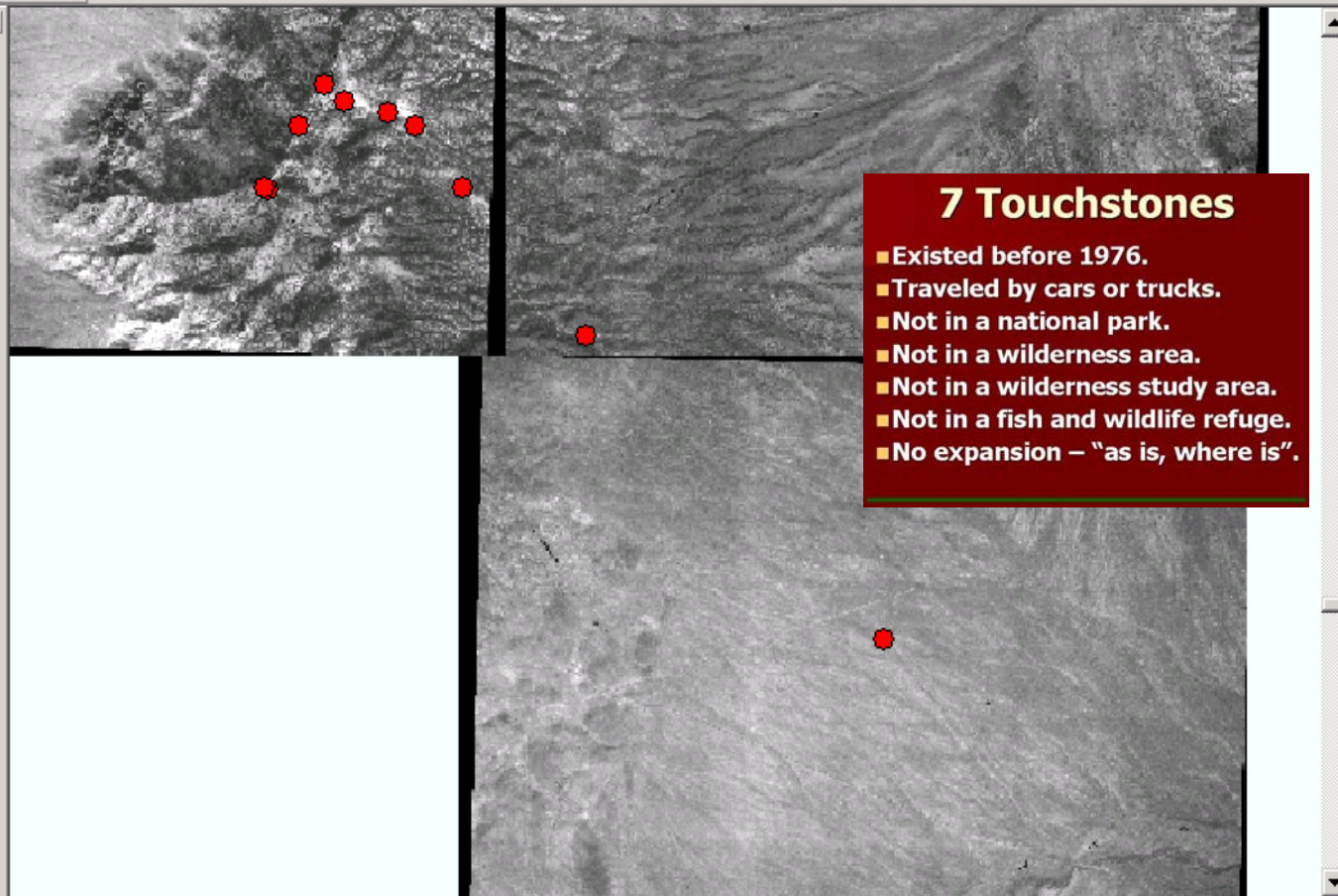
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Road Attributes

Attributes of Frisco Peak Road, Beaver Co

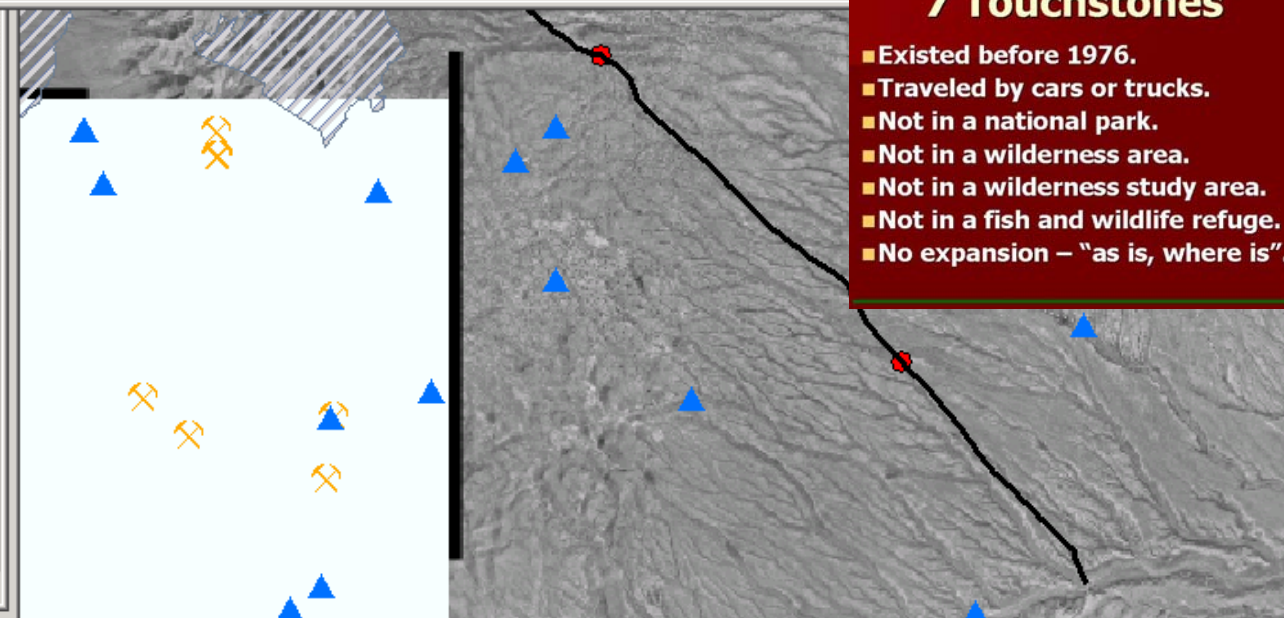
S_NAME	S_ACCUR	CO_UNIQUE	S_SURF	S_WIDTH	S_SURFWIDT	S_DATE	RD_ID
Frisco peak rd	10	1227-111	320	20	18	8/29/2000	RD011227

Record: 1 Show: All Selected Records (0 out of 1 Selected.) Options ▾

CLAIM

 no
yes

- ☒ Frisco Peak Road Events
- ☒ Citizens Wilderness Proposal UWC_PROP
- ☒ Points of Diversion, Beaver Co
- ☒ Oil Wells, Beaver Co
- ☒ Mineral Deposits, Beaver Co
- ☒ Beaver DOQ's 90's vintage
- ☐ Beaver DOQ's 76 vintage



7 Touchstones

- Existed before 1976.
- Traveled by cars or trucks.
- Not in a national park.
- Not in a wilderness area.
- Not in a wilderness study area.
- Not in a fish and wildlife refuge.
- No expansion – "as is, where is".

Display Source

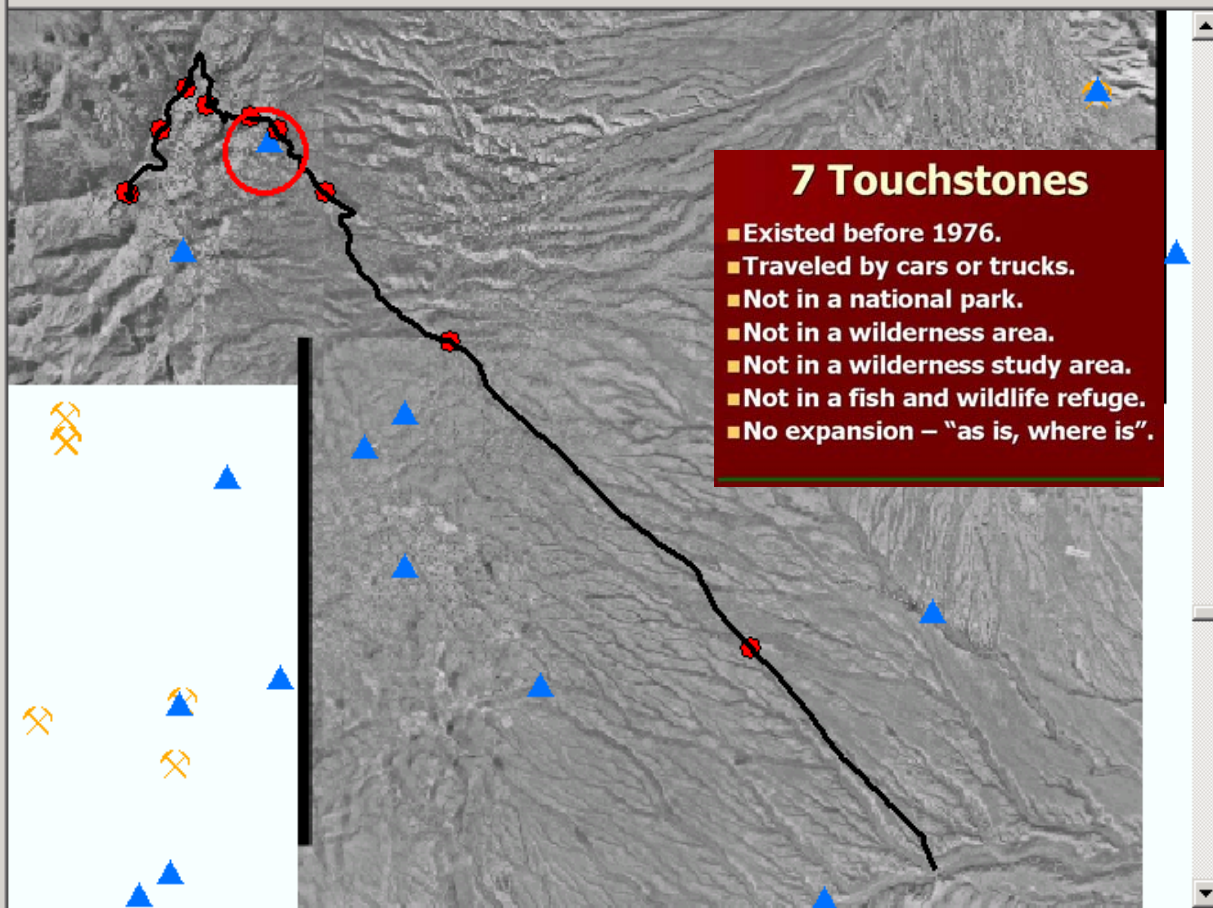
Identify Results

Layers: Points of Diversion, Beaver Co

Location: (302678.177311 4266477.076471)

Field	Value
FID	1033
Shape	Point
AREA	0
PERIMETER	0
WRDAMS_	165690
WRDAMS_ID	165690
WRNUM	71 2504
CHANGE_	
TYPE	SURFACE
SUMMARY_ST	T
STATUS	APPLDIS
PRIORITY	19490604
USES	
CFS	0.25
ACFT	0
LOCATN	N 37 E 1216 SWSL 265 13W24
WIN	
OWNER	MARGUARDSON, MRS. MYRTLE
AREA_CODE	71
EXCHG_	
CORNER	SW
BASE	SL
TOWNSHIP	265
RANGE	13W
SECTION	24
PRIORITY_Y	1949

Water Rights Detail



Drawing

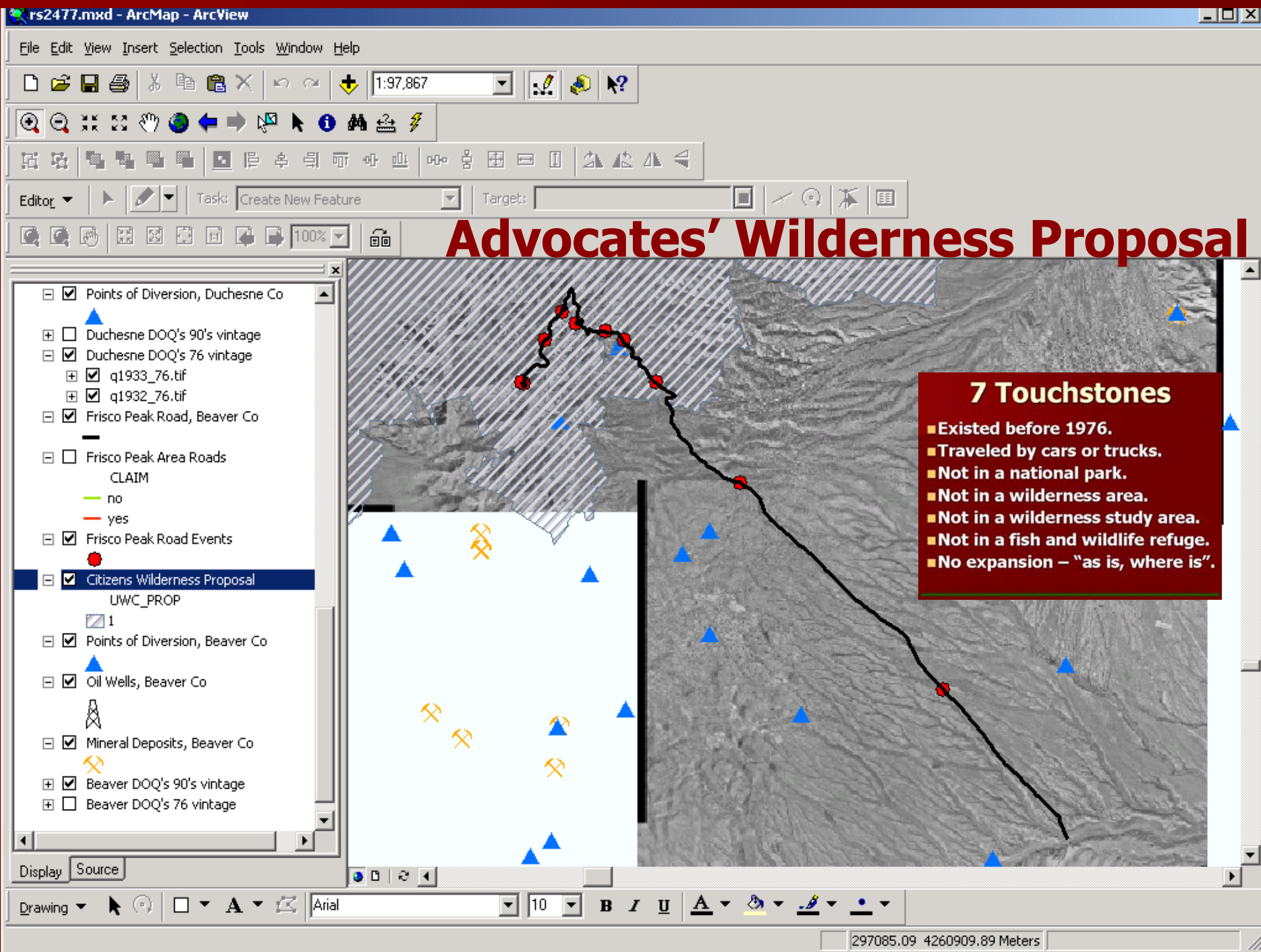
Arial

10

B I U

A

300347.73 4266943.17 Meters





Ascent To Frisco Peak

It begins as a Class B road on the valley floor and becomes smaller as it ascends to the peak.

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Affidavit

20. I have observed the Frisco Peak Road since about 1955. The road descriptions herein pertain to that road.

21. I have traveled the Frisco Peak Road since approximately 1955.

22. The road has been open to the public for all to use, to come and go as they pleased, since before 1966 and continuing through 1976 and beyond.

23. Since before 1966 and continuing to the present the road has been used for accessing and maintaining the TV and cellular towers located at Frisco Peak, for hunting, picking pine nuts, and sightseeing.

24. Travelers on the road from before 1966 and continuing thereafter included those who went by car and four-wheel drive pickup.

25. When I first used and observed the road it ran essentially the same route as it does now. The width of the traveled portion of the road as of 1966 was essentially the same as it is now.

26. Construction and maintenance of the road before 1976 and continuing to the present is performed by Beaver County, using motor graders.

27. By way of further particulars regarding this highway as it now stands, it is a Class B road. The road begins off of Highway 21 at the Big Wash and ends at the top of Frisco Peak. The road surface is native dirt, with gravel added and graded in at certain locations

**Other photos from
Rich, Kane and
Washington County**



Kane County--Old pioneer trail
to right not claimed; R.S. 2477
claim shown to the left.



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Hurricane Wash



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R.S. 2477 claim ends at trailhead.



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A photograph of a dirt road in a forest. The road is light-colored and appears to be made of sand or gravel, with some small rocks scattered on it. It curves slightly to the right in the distance. The forest is composed of many tall, thin trees with green foliage. The ground on either side of the road is covered with green grass and some low-lying shrubs. The lighting suggests it's daytime, with shadows cast across the road.

Rich County

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